IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 6021 of 2005

Between:

M/s. Krishna Sagar Agro Industries, Rep. by it's Managing Partner,
Sri J. Nageswara Rao S/o. Venkata Subbaiah, Ankapoor, Armoor Mandal,
Nizamabad District.

..... PETITIONER

AND

The Commercial Tax Officer-III, Nizamabad, Nizamabad District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ Order or direction declaring the impugned order G.L. No. 699/2002-03/110A2 dt. 23-12-2004 on the file of the Commercial Tax Officer-III, Nizamabad as illegal, arbitrary and ultravires the provisions of Section 14 (4) of the A.P.G.S.T. Act, 1957.

Counsel for the Petitioner: MR.D.KRISHNA MURTHY

Counsel for the Respondent: GP FOR COMMERCIAL TAX

The Court made the following :

-

-

-

THE HON'BLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.NO.6021 OF 2005

ORDER: (per the Hon'ble Sri Justice G.Bikshapathy)

The writ petition is filed assailing the order dated 23-12-2004, which was served on the petitioner in January 2005. The principal contention raised by the petitioner is that he is entitled for exemption of tax on the certified seeds and they have been procuring the seeds for the agriculturists and paying the market fee. In such a situation, the question of payment of tax would not arise. Therefore, the impugned order is wholly without jurisdiction.

2. We have heard the learned counsel for the petitioner and the learned Government Pleader for Commercial Tax.

3 . Since the matter involves the issues relating to factual aspects, we are not inclined to adjudicate the matter in the writ petition. Therefore, writ petition is disposed of with a direction to the petitioner to file appeal before the appellate authority in accordance with the rules. However, we find it appropriate to grant two weeks time from today to enable him to file appeal, if the same is permissible in accordance with law. The respondents are directed not to take any coercive steps for a period of two weeks from today. Office is directed to return the original order.

_____

G.BIKSHAPATHY, J.

_____

P.S.NARAYANA, J.

Dated 31-03-2005.

SKMR

Note: Issue C.C. by 04-04-2005.

B/O

skmr

To

1. The Commercial Tax Officer-III, Nizamabad, Nizamabad District.

2. 2 CCs to G.P. for Commercial Tax, High Court Buildings, Hyderabad

(OUT).

3. Copy to the Section Officer, E.R. Section, High Court of A.P., Hyd.

4 2 CD copies